

## REMARKS

Claims 1-28 and 30-41 are pending in the application. Claims 1 and 27 have been amended and claim 29 has been cancelled. Further, claim 41 is newly added to the application. No new matter has been introduced by the amendment.

### Rejection Under 35 U.S.C. 103(b)

Claims 1-2, 26-28, 31-38, and 40 have been rejected over Shimada et al. This rejection is overcome in view of the amendment of claims 1 and 27, together with the following remarks.

Claim 1, as amended, recites a method of fabricating a stacked structure that includes bonding first and second plates together. At least a portion of one of the first or second plates has a structured surface. A sacrificial layer is produced on at least a portion of the surface of the first or second plate. The first and second plates are bonded together by bonding the sacrificial layer to a remaining first and second plate. The structured surface contacts the sacrificial layer in the stacked structure.

As described in the applicants' substitute specification "the method of the invention produces a stacked structure comprising a sacrificial layer between two substrates and in which at least on the two substrates is such that at least a portion of its surface in contact with said sacrificial layer is structured." (Substitute Specification, pg. 7, ll.5-9). Further, at page 16, lines 11-17, the applicants point out that the structured surface can be provided on either the first or second plate. Continuing at page 16 of the applicants' substitute specification, the applicants also describe that the sacrificial layer can be produced on either the first or second plates. (Substitute Specification, pg. 16, ll. 19-25). As described by the applicants at page 7 of their substitute specification, the method can provide a stacked structure in which two facing surfaces of the first and second substrates contact each other in the absence of the sacrificial layer.

Such a structure can prevent the two surfaces from undesirably sticking together. (Substitute Specification, pg. 7, ll. 19-25).

In contrast to the method recited in claim 1, Shimada et al. disclose a peeling layer (4). Used to transfer a light blocking layer (5) from a first substrate (1) to a second substrate (8). In the bonded structure illustrated by Shimada et al. in Fig. 4e, the peeling layer (4) only contacts the light blocking layer (5). Upon separation of the substrates, the light blocking layer (5) resides on the second substrate (8) and has the general shape of the dents (3) in the surface of the first substrate (1). In contrast, the method of claim 1 recites that the first and second plates are bonded together by bonding the sacrificial layer to a remaining first or second plate. Accordingly, the analogy in the instant office action of the peeling layer (5) of Shimada et al. to the applicants' claimed sacrificial layer is not supported by Shimada et al.

Claim 26 depends directly or indirectly from claim 1. This claim is allowable in view of the amendment and foregoing remarks pertaining to claim 1.

Claim 27, as amended, recites a stacked structure that includes a sacrificial layer between a first substrate and a second substrate. At least a portion of one of the first or second substrates comprises a structured surface. In the stacked structure, the structured surface has a roughness greater than a predetermined threshold. The applicants respectfully assert that the claimed stacked structure is not suggested or disclosed by Shimada et al.

Claims 28, 31-38, and 40 depend directly or indirectly from claim 27. These claims are allowable in view of the amendment and foregoing remarks pertaining to claim 27.

#### **Rejection Under 35 U.S.C. §102(e)**

Claims 1, 3-8, 12-13, 16-18, 21-24, 26-27, and 29-30 have been rejected over Lei et al. This rejection is overcome in view of the applicants' submission of a certified English translation of their French priority application No. 0308865, filed July 21, 2003. The filing date of the applicants' French priority application predates the August 21, 2003 filing date of Lee et al. In accordance with MPEP

§201.15 the applicants assert that Lee et al. does not represent prior art to their instant patent application.

**Rejection Under 35 U.S.C. §103(e)**

Claims 9-11 have been rejected over Lei et al. in view of Yee et al. The applicants assert that this rejection is overcome in view of the removal of Lei et al. The applicants' further assert that their claims are not obvious over Yee et al. This is at least because Yee et al. does not suggest or disclose the applicants' stacked structure or method of fabricating the stacked structure.

Claim 14 has been rejected over Lei et al. in view of Maleville et al. this rejection is overcome in view of the removal of Lei et al. The applicants further assert that claim 14 is not obvious in view of Maleville et al., at least because Maleville et al. does not suggest to disclose the applicants' claim stacked structure or method of fabricating the stacked structure.

Claims 15 and 25 have been rejected over Lei et al. in view of Hosoma et al. The applicants assert that this rejection is overcome in view of the removal of the Lei et al. Further, claims 15 and 25 are not obvious in view of Hosoma et al., at least because there is no suggestion of the applicants' claimed stacked structure or method of fabricating the stacked structure.

Claims 19-20 have been rejected over Lei et al. in view of Haberberger et al. This rejection is overcome in view of the removal of Lei et al. Further, claims 19-20 are not obvious over Haberberger et al. in view of a failure to suggest to disclose the applicants' stacked structure and method of fabricating the stacked structure.

Claim 39 has been rejected over Shimada et al. in view of Hosoma et al. This rejection is overcome in view of the amendment of claim 27 together with the applicants foregoing remarks pertaining to Shimada et al. The applicants further assert that Hosoma et al. does not overcome the deficiencies of Shimada et al. Neither reference suggests or discloses the applicants' claimed stacked structure.

The additionally cited references have been carefully reviewed and found not to be relevant to the applicants pending claims.

**New Claim**

Claim 41 is newly added to the application in order that the applicants can more fully claim the subject matter of their invention. Claim 41 recites that the method of claim 1 further comprises producing a supplemental sacrificial layer on the remaining first or second plate. Accordingly, the method of claim 41 produces a stacked structure in which both the first and second plates include a sacrificial layer. The applicants assert that claim 41 is not suggested or disclosed by the cited references.

The applicants have made novel and non-obvious contributions of the art of stacked device structures and methods of fabrication. The claims at issue distinguish over the cited references and are in condition for allowance. Accordingly, such allowances now earnestly request it.

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